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Paper No. 10

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In re Application of Prakash, et al. Application No. 10/039,125 Filed: December 31, 2001 Docket No.: H052617.1136USO For: ARCHITECTURAL BASIS FOR THE BRIDGING OF SAN AND LAN INFRASTRUCTURES

OFFICE OF PETITIONS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed September 6, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 31, 2001 without an executed oath or declaration and naming Ramkrishna, Prakash, David M. Abmayr, Jeffrey H. Hilland, James Fouts, Scott C. Johnson, and William F. Whiteman as joint inventors. Accordingly, on February 6, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirement (1) stated above. The petition alleges inventor Scott C. Johnson cannot be located. Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. The declaration of Rochelle M. Pleasant indicates that attempts to locate the inventor via the inventor's last known telephone number, directory assistance and the Internet were unsuccessful. Petitioner has failed to provide any evidence to substantiate the efforts allegedly made to locate the inventor.

Moreover, while the petition alleges the non-inventor cannot be located at the non-signing inventor's last known address, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates inventor Scott C. Johnson has more recently resided at the following address: 1890 WOODWARD AVENUE, CLEVELAND HEIGHTS, OHIO 44118-2040.

Petitioner is required to undertake additional effort to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, claims, drawings, oath or declaration). Details regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein. Where appropriate, the declaration should be accompanied by substantiating evidence.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Commissioner for Patents

Box DAC

Washington, DC 20231

By FAX:

(703) 308-6916

Attn: Office of Petitions

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Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown

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Office of Petitions Office of the Deputy Commissioner for Patent Examination Policy

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